

Members

Sen. Beverly Gard, Chairperson
Sen. Kent Adams
Sen. Vi Simpson
Sen. Glenn Howard
Rep. Mark Kruzan
Rep. Richard Mangus
Rep. Dale Sturtz
Rep. David Wolkins
David Benshoof
Michael Carnahan
Randy Edgemon
Hon. Jack Fowler
Marvin Gobles
William Goffinet
Max Goodwin
Lori Kaplan
Regina Mahoney
Kerry Michael Manders
David Rector
Gary Redding
Alice Schloss
Arthur Smith, Jr.
Hon. Jim Trobaugh
Lynn Waters



ENVIRONMENTAL QUALITY SERVICE COUNCIL

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Authority: P.L. 248-1996 (SEA 138)

MEETING MINUTES¹

Meeting Date: September 9, 1999
Meeting Time: 10:00 A.M.
Meeting Place: Governmental Center South, 302 W. Washington St., Conference Rooms 4 and 5
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Sen. Beverly Gard, Chairperson; Sen. Kent Adams; Sen. Vi Simpson; Rep. Mark Kruzan; Rep. David Wolkins; David Benshoof; Randy Edgemon; Marvin Gobles; Max Goodwin; Lori Kaplan; Regina Mahoney; Kerry Michael Manders; David Rector; Alice Schloss; Arthur Smith, Jr.; the Hon. Jim Trobaugh; Lynn Waters.

Members Absent: Sen. Glenn Howard; Rep. Richard Mangus; Rep. Dale Sturtz; Michael Carnahan; the Hon. Jack Fowler; William Goffinet; Gary Redding.

Senator Gard, the Chairperson of the Environmental Quality Service Council (EQSC), called the meeting to order shortly after 10:00.

Senator Gard called upon Lori Kaplan, the Commissioner of the Indiana Department of Environmental

¹Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Management (IDEM), to present her monthly report to the EQSC. Referring to a packet of printed materials², Commissioner Kaplan discussed IDEM's outreach, education, and assistance activities for the month of August; IDEM's current rulemaking activities; and other aspects of recent IDEM activity. Commissioner Kaplan reported that IDEM issued no late permits in August and has not issued a late permit since October of 1998. She also announced that the merger of IDEM's Office of Emergency Response and Office of Solid and Hazardous Waste Management into a single entity named the Office of Land Quality will take effect on September 19, 1999.

REVIEW OF 1998 EQSC REQUESTS AND RECOMMENDATIONS

At Senator Gard's request, Commissioner Kaplan commented on a number of matters that were raised in Council intern Jeff Miller's written summary of the EQSC requests and recommendations directed to IDEM in 1998³. Her comments included the following points:

Concerning the recommendations of the 1998 EQSC Underground Storage Tank Subcommittee:

1. As suggested by the Subcommittee, IDEM published a nonrule policy document on its penalty policy relating to underground storage tanks in April of 1999.
2. There is now an Abandoned Tank Community Assistance Program to assist local governments in the removal or closure of underground storage tanks that have been abandoned by their former owners. A total of \$500,000 has been allocated to the program for 1999-2001.

Concerning the recommendations of the 1998 EQSC RISC (risk-integrated system of closure) Subcommittee:

- As suggested by the Subcommittee, IDEM will allow a transition period before the full implementation of the RISC requirements.
- IDEM has established a RISC Advisory Group to discuss key issues pertaining to the RISC Technical Manual and User Guides. The first meeting of the Advisory Group is scheduled for Sept 22.

Concerning the recommendations of the 1998 EQSC Non-point Source/Agriculture Subcommittee:

- IDEM has increased its coordination with the Indiana Department of Health in relation to septic systems.
- IDEM and the Department of Health have held joint meetings and workshops on septic tank issues.

Concerning the recommendations of the 1998 EQSC IDEM Staffing Subcommittee:

- IDEM has upgraded its environmental attorney positions and is in the process of evaluating its chemist positions for an upgrade.
- By converting temporary positions to full-time positions, IDEM has increased its full-time staff by 80 persons.

In response to a question from Senator Gard, Commissioner Kaplan said that IDEM is still considering ways of using existing staff more efficiently. She cited as an example the creation the IDEM's Office of Land Quality through the merger of two previously separate offices. She pointed out that Indiana is far ahead of the other states in US EPA Region 5 in the issuance of permits under Title V of the 1990 Clean Air Act Amendments. She also pointed out that IDEM has undergone a permit re-engineering process designed to improve efficiency and shorten time frames, and has taken steps to create permits-by-rule or "general" permits where appropriate in order to free up staff to concentrate on other areas.

At the request of Kerry Manders, Commissioner Kaplan commented on the combined sewer overflow problem in Indianapolis. She said that Indianapolis, like 105 other Indiana communities, has combined sanitary and storm water sewers; that IDEM has worked with city officials on the renewal of Indianapolis's NPDES permit since

²A copy of the packet of materials presented to the EQSC by Commissioner Kaplan, labeled as ATTACHMENT A to these minutes, is available from the Legislative Information Center (LIC) for reading and copying.

³This report was distributed at the EQSC meeting of August 10, 1999.

November of 1997; and that the difficulty with respect to the renewal of the permit arises from the need to meet surface water quality standards adopted in 1990 by the Water Pollution Control Board.

In response to questions from Alice Schloss and Ginny Mahoney, Commissioner Kaplan discussed IDEM's staff. She said that some staff members are being shifted or reassigned, but that no positions are being eliminated, and that vacancies are being filled as they open up.

When Senator Gard inquired about the minutes of the EQSC meeting of August 10, Commissioner Kaplan requested that they be corrected by making a change on page 2: "Water Quality Advisory Board" should be changed to "Water Quality Advisory *Group*." This correction was adopted by consent.

IDEM'S UNDERGROUND STORAGE TANK PROGRAM

Felicia George, the Assistant Commissioner in charge of IDEM's Office of Enforcement, provided the EQSC with additional information on IDEM's underground storage tank (UST) program. She made the following points:

- Under UST regulations that went into effect on December 22, 1998, every UST that is not properly protected against spills, overflows, and corrosion must be upgraded, replaced, or properly closed.
- Before December 22, 1998, IDEM conducted an intensive outreach effort to ensure that owners and operators of USTs knew of the impending requirements.
- Since December 22, 1998 IDEM has inspected UST sites to determine whether tank owner/operators had upgraded or closed their tanks or taken advantage of the one-year temporary closure option. Of 2340 USTs determined not to have been upgraded, IDEM has inspected 1740 and will inspect the remainder before Oct 31, 1999.
- The 1740 inspections have led to 14 warning letters for minor compliance discrepancies and 17 referrals to the Office of Enforcement.
- IDEM will now focus on the 678 UST sites whose owner/operators took advantage of the one-year closure option. IDEM will ensure that those USTs are properly closed or upgraded.
- Indiana has experienced a high rate of compliance with the UST requirements. The compliance rate has been high across the country.

In answer to questions from Representative Wolkins and other EQSC members, Commissioner Kaplan and Deputy Commissioner Tim Method provided the following additional information about the Abandoned Tank Community Assistance Program:

- County governments may apply for financial assistance from the program. So may cities, towns, townships, and their member groups (such as economic development committees).
- Communities whose applications are accepted receive approximately \$10,000 per site. This sum is based on the cost of removing an UST, not the cost of remediations and cleanup. If a site is found to be contaminated after removal or closure of the UST, the community might be referred to the brownfields redevelopment program for further assistance.

Stan Pinegar, Executive Director of the Indiana Petroleum Council, called IDEM's underground storage tank program a success and expressed appreciation for being given the opportunity to work on the program in 1998 through the EQSC's Underground Storage Tank Subcommittee. Overall, he said, the industry is pleased with the progress of the UST program so far.

Mike Pitts of the Indiana Petroleum Marketers and Convenience Store Association concurred in Mr. Pinegar's comments. He also stressed the need for IDEM to be vigilant in reviewing the 678 UST sites whose owner/operators took advantage of the one-year closure option.

REPORT ON THE STATUS OF SOLID WASTE DISTRICTS

Senator Gard recognized Jim Mahern, Assistant Commissioner in charge of IDEM's Office of Pollution Prevention and Technical Assistance, to discuss Indiana's solid waste management districts.

Mr. Mahern distributed a fact sheet on the Indiana Recycling Grants Program,⁴ informing the EQSC that IDEM offers several types of grants to solid waste management districts, including grants for basic education and promotion projects, grants for model solid waste management projects, and grants for household hazardous waste reduction, collection, and disposal programs.

Mr. Mahern next distributed a fact sheet entitled “Economic Need: District Un-Encumbered Cash Balance as of 12/31/98.”⁵ He explained that IDEM considers the unencumbered cash balance of a solid waste management district as an indicator of the district’s economic need when considering grant applications.

Finally, Mr. Mahern distributed a fact sheet on entitled “Indiana Solid Waste Disposal: Analysis of % Diversion - Estimate,”⁶ which presented several types of information on the generation and disposal of solid waste in Indiana for the years 1993 through 1998.

Senator Gard inquired about the estimated capacity of permit-holding solid waste disposal facilities located in Indiana. Bruce Palin, Deputy Commissioner and head of IDEM’s Office of Land Quality, responded that “permitted capacity” has increased in recent years and was recently estimated to be sufficient to accommodate Indiana’s disposal needs for 10 to 12 years.

Mr. Palin reported that in 1998 well over two million tons of solid waste generated in other states was imported into Indiana for disposal, while only 237,162 tons of solid waste generated in Indiana was disposed of in other states. He added that the amounts currently being imported to Indiana from other states for disposal are comparable to amounts imported in the early 1990’s, when the importation of solid waste was a high profile issue, but the sources have shifted – the chief source in the early 1990’s was the east coast and it is now the Chicago area.

IDEM Deputy Commissioner Tim Method commented that Indiana is working with 7 or 8 other states at the federal level toward the passage of legislation that would give states control over the importation of solid waste.

Representative Wolkins, referring to the “Analysis of % Diversion” fact sheet, made this observation: the figures show that we are not winning the war on waste. He noted, in particular, that the total amount of solid waste disposed of in Indiana has grown each year since 1993, and that the percentage of the state’s solid waste being diverted from disposal is falling short of the goals set in the state solid waste management plan. Max Goodwin concurred in Representative Wolkins’s observation, saying that the failure to divert more of Indiana’s solid waste from disposal is a serious problem and that no one seems to be talking about this problem. Randy Edgemon asked how much more solid waste would have to be diverted from disposal in order to meet the state plan’s goals. Marvin Gobles commented that the condition of the market for recycled goods affects the achievement of diversion goals.

Commissioner Kaplan spoke briefly about solid waste-related educational efforts being carried out by IDEM. Lynn Waters commented that the generation of solid waste seems to be related to the economy: the more prosperous people are, the more things they buy, and the more they throw away. Ginny Mahoney expressed regret that consumers seem to have lost their interest in less wasteful packaging. In response to a question from Alice Schloss, Mr. Mahern stated that IDEM is involved in pollution prevention and source reduction activities as well as in recycling.

EQSC member Lynn Waters, the Director of the LaPorte County Solid Waste Management District, then introduced Mark Davis, the Executive Director of the Association of Indiana Solid Waste Districts. Mr. Davis made the following points:

- As Representative Wolkins noted, the amount of solid waste being generated in Indiana has increased. But

⁴A copy of this fact sheet, labeled as ATTACHMENT B to these minutes, is available from LIC.

⁵A copy of this fact sheet, labeled as ATTACHMENT C to these minutes, is available from LIC.

⁶A copy of this fact sheet, labeled as ATTACHMENT D to these minutes, is available from LIC.

the amount of the increase would be much greater without IDEM's reduce and recycle programs.

- In the solid waste generation and diversion figures presented to the EQSC, Indiana "suffers from its own honesty." The figures would be more favorable if Indiana inflated them like some other jurisdictions do.
- Regarding the use of unencumbered cash as an indicator of a the economic need of a solid waste management district (SWMD):
 - ▶ SWMDs, which were created under a law enacted in 1990, are relatively "young" institutions, and some that rely on a property tax levy for funding have been forced to set the tax rate according to a "guesstimate," which may for a time produce somewhat greater funds than needed.
 - ▶ Any SWMD that relies on property taxes for its income will receive its funds only twice per year; a high balance of unencumbered cash shortly after the SWMD receives its twice-yearly disbursement of tax proceeds does not necessarily indicate a lack of economic need.
 - ▶ The income stream of a SWMD is subject to change. For example, a SWMD that derives its income from disposal fees will experience a sharp drop in income when a landfill located in the district closes.

Mr. Davis mentioned the following in a discussion of "good and bad things going on" with respect to SWMDs:

- SWMDs have taken a leading role in recycling programs, including new programs for discarded electronics equipment.
- Some SWMDs have permanent facilities for the handling of household hazardous waste. Twenty-five have regular "tox away days."
- SWMDs have spearheaded the Mercury Awareness Program (MAP).
- Almost two-thirds of the SWMDs are involved in composting. The LaPorte County SWMD has a contract with the state for the composting of waste from a state prison.
- SWMDs are involved in education and outreach.
- Public/private partnerships involving SWMDs have created new business opportunities.
- There are "haves" and "have nots" among SWMDs. Some SWMDs have funding mechanisms in place and are able to raise ample funds; others have insufficient resources.
- Illegal Dumping remains a significant problem in Indiana. IDEM has not been able to pay sufficient attention to this problem due to staffing limitations. Perhaps SWMDs could fill this void.

Lynn Waters then spoke about her experiences as Director of the LaPorte County SWMD. She made the following points:

- Curbside recycling dramatically increases the success rate of a recycling program.
- The sufficiency of a SWMD's funding can depend on the presence of a landfill within the district and "brave elected officials."
- A task force should be created to look into the funding of SWMDs. It should include representatives of the Association of Indiana Solid Waste Districts and legislators who are members of the EQSC.
- SWMDs have a couple of serious problems, but they tend to be successful if properly supported.

In response to Senator Gard's request for comments from industry, Nelson Becker of the National Solid Waste Management Association addressed the EQSC. His comments included the following points:

- Due to the lack of information on which to base them, the recycling goal set when the state solid waste management plan⁷ was adopted may have been "just a nice number."
- Recycling is going on, and IDEM and the SWMDs have done a good job in promoting it.
- Outside factors affect the extent of recycling activity. For example, the Asian market for recycled paper recently dipped. And when people spend more, there is more trash.
- Indiana does receive much solid waste from out of state, much of it from Illinois, but the third largest city in Indiana sends its waste to Michigan and some eastern Indiana communities send their waste to Ohio.
- Indiana still has 10-to-12 years of landfill capacity, which is far more than we, in 1990, would have expected to have in 1999. We're in pretty good shape, but we must continue to develop end uses of solid

⁷IC 13-21-1.

waste.

Glenn Pratt, who identified himself as a resident of Indianapolis, discussed problems affecting recycling within his city. He said that units of local government should be encouraged to promote recycling.

Kerry Manders expressed concern over the problem of illegal dumping and asked what could be done to prevent it.

PLANS FOR FUTURE EQSC ACTION

Senator Gard directed staff to distribute copies of a paper⁸ that set forth the issues assigned to each of the EQSC's subcommittees; the responsibility imposed on the EQSC with respect to each of the issues; and the deadline (if any) by which the EQSC must meet each responsibility.

The next meeting of the EQSC was scheduled for **Thursday, October 21 beginning at 10:00 a.m.**

Senator Gard announced that:

- the EQSC, at its October 21 meeting, will take up the issues that the subcommittees have dealt with;
- the EQSC will receive final reports from the subcommittees at its November meeting; and
- the final report of the EQSC will be finalized at the EQSC's December meeting.

Senator Gard invited EQSC members to submit any other issues that they wish to have the EQSC discuss at its October 21 meeting. Kerry Manders suggested the discussion of problems associated with septic systems.

Senator Gard declared the meeting adjourned at 12:29.

⁸A copy of this paper, labeled as ATTACHMENT E to these minutes, is available from LIC.